

FORCE RESPONSE

Public Safety Advisory Board

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Sergeants Monty Fox and Leigh Erickson



WHAT'S COVERED

- ▶ Force Response Guidelines
 - ▶ *Graham v. Connor*
 - ▶ TPD Policy 300.3 and 300.4
 - ▶ ORS 161.235
 - ▶ ORS 161.239
- ▶ What does this all mean?
- ▶ Other Considerations



GRAHAM V. CONNOR

- ▶ *Graham v. Connor* – November, 1984
 - ▶ Graham suffers a blood sugar episode while at home and asks a friend to drive him to a store for orange juice
 - ▶ At the store, Graham goes in and sees a long check out line
 - ▶ He leaves the store quickly and returns to his friend's car



GRAHAM V. CONNOR

- ▶ *Graham v. Connor* – November, 1984
 - ▶ Officer Connor observes Graham enter and quickly exit to the waiting car
 - ▶ He makes an investigatory stop about .5 miles from the store after following the vehicle
 - ▶ At the stop, Graham gets out of the car and runs around it twice before Connor and Graham's friend stop him
 - ▶ Graham is seated on the curb but soon passes out



GRAHAM V. CONNOR

- ▶ *Graham v. Connor* – November, 1984
 - ▶ Graham is revived and handcuffed and lying face down on the sidewalk
 - ▶ Several other officers arrive and pick Graham up to place him over the hood of his friend's car
 - ▶ Graham reached for his wallet to show his diabetic id card but officer shoved his head down into the hood and told him to shut up
 - ▶ Officers struggled to place Graham into the back of a patrol over his vigorous resistance



GRAHAM V. CONNOR

- ▶ *Graham v. Connor* – November, 1984
 - ▶ Officer Connor received a report from the store that no crime had occurred
 - ▶ Officers drove Graham home and release him
 - ▶ Graham suffered a broken foot, cuts on his wrists, a bruised forehead, and an injured shoulder



GRAHAM V. CONNOR

- ▶ Questions before the U.S. Supreme Court – February, 1989
 - ▶ Must Graham show that the police acted “maliciously and sadistically for the very purpose of causing harm” to establish that the police used excessive force?
 - ▶ Must the claim that law enforcement officials used excessive force be examined under the Fourth Amendment’s “objective reasonableness” standard?



GRAHAM V. CONNOR

- ▶ Decided – May, 1989
 - ▶ No, there is no requirement to show the officers acted “maliciously and sadistically” for the very purpose of causing harm
 - ▶ Yes, the Fourth Amendment’s “objective reasonableness” standard is the proper analysis for claims of excessive force by government officials



GRAHAM V. CONNOR

- ▶ Decided – May, 1989
 - ▶ All claims that law enforcement officials have used excessive force - deadly or not - in the course of an arrest, investigatory stop, or other “seizure” of a free citizen are properly analyzed under the Fourth Amendment’s Objective Reasonableness standard
 - ▶ The Fourth Amendment’s “reasonableness” inquiry is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.



GRAHAM V. CONNOR

- ▶ Decided – May, 1989
 - ▶ The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.



TPD POLICY 300.3

► Use of Force

- Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.
- The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.



TPD POLICY 300.4

- ▶ Deadly Force Applications

- ▶ An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury



TPD POLICY 300.4

► Deadly Force Applications

- An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction of or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible



TPD POLICY 300.4

► Deadly Force Applications

- Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, imminent danger may exist if an officer reasonably believes any of the following:
 - The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another
 - The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so



ORS 161.235

- ▶ Use of Physical Force in Making an Arrest or in Preventing an Escape
 - ▶ A peace officer is justified in using physical force upon another person only when and to the extent that the peace officer reasonably believes it necessary:
 - ▶ To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful
 - ▶ For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape



WHAT DOES ALL THIS MEAN?

- ▶ *Graham* Factors

- ▶ What is the severity of the crime?
 - ▶ Can we legally be here (standing)?
 - ▶ Is this inherently violent?
 - ▶ Is this a Felony or Misdemeanor?



WHAT DOES ALL THIS MEAN?

- ▶ *Graham Factors*

- ▶ Does the suspect pose an immediate threat to the safety of the officers or others?
 - ▶ Intent (as perceived by the officer)
 - ▶ Ability or means
 - ▶ Opportunity



WHAT DOES ALL THIS MEAN?

- ▶ *Graham Factors*
 - ▶ Is the suspect actively resisting arrest?
 - ▶ Yes or no?
 - ▶ If yes, how much resistance is occurring?
 - ▶ Sliding scale



WHAT DOES ALL THIS MEAN?

- ▶ *Graham Factors*

- ▶ Is the suspect attempting to evade arrest by flight?

- ▶ Yes or no?

- ▶ If yes, consider severity of crime and immediate threat to determine the appropriate force response



WHAT DOES ALL THIS MEAN?

- ▶ *Graham Factors*

- ▶ Are the circumstances tense, uncertain, and rapidly evolving?
 - ▶ Yes or no?
 - ▶ If yes, consider severity of crime, immediate threat, actively resisting, or evading by flight to determine the appropriate force response



WHAT DOES ALL THIS MEAN?

- ▶ Force Responses are a balancing act of the need for government intrusion (seizure of a person) against the reasonably foreseeable risks (injury) created by the tactics, techniques, or tools we are using to achieve a lawful (arrest, detain, threat reduction) objective



WHAT DOES ALL THIS MEAN?

- ▶ Police Legitimacy
 - ▶ Three level of justification
 - ▶ U.S. Constitution, Fourth Amendment
 - ▶ Oregon Constitution, Article I, Section 9; ORS; Department Policy
 - ▶ Public Perception or Expectation
 - ▶ Each level is progressively harder to obtain



WHAT DOES ALL THIS MEAN?

- ▶ Other things to think about
 - ▶ Warning and opportunity to comply (if feasible and does not risk safety for officer, others, or suspect)



OTHER POLICY CONSIDERATIONS

- ▶ Duty to Intercede
 - ▶ TPD Policy 300.2.1
 - ▶ If you observe someone using force that is clearly beyond that which is objectively reasonable you need to intercede when you are in a position to do so
 - ▶ We are all human and subject to influences like emotion
 - ▶ You are also required to report to a supervisor, as soon as feasible, if you witness another member of this department using force that is potentially beyond that which is objectively reasonable



EXIGENCY AND DE-ESCALATION

- ▶ There are few situations that require us to respond expediently and before we have sufficient resources immediately available to us
 - ▶ Wait if you can
 - ▶ Plan your response with other officers
 - ▶ Do not place yourself or others into a situation that precipitates an otherwise unnecessary level of force being used if we can take our time
- ▶ De-Escalation
 - ▶ This is a goal or result, not a set of tactics or techniques
 - ▶ We achieve de-escalation but taking the time to slow situations down, using those processes we use everyday in almost every encounter to our benefit
 - ▶ If we can use Time, Distance, Environment, Containment, etc to our advantage and control a situation, we can now work towards engagement with the subject to slow things down safely



TRAINING

- ▶ Outside of specific skills training (hand to hand skills in Defensive Tactics or qualifications in Firearms), Force Response training is largely a decision-making skill that is developed and evaluated continually
- ▶ Each training discipline associated with force response use best practices to assist officers with decision-making skills while working on the physical skills being exercised
- ▶ Examples from each of the disciplines will be elaborated on in the next slides



TRAINING

- ▶ Firearms

- ▶ Federal Standards – Training must include each of the following: Target Identification, Moving Target, Discretionary (shoot/don't shoot) Targets, Low Light Shooting
- ▶ State Standards – Pass all academy training, 8 hours Firearms/Use of Force Training per year
- ▶ Tigard PD Standards – Pass all department training, qualify once per year (Rifle), qualify twice per year (Handgun)



TRAINING

► Defensive Tactics

- Defensive Tactics are those skills that are primarily focus on using hands, arms, legs, and feet to try to physical control someone who is resisting arrest or trying to harm someone
- Scenarios are used to evaluate and develop skills like handcuffing, using leverage to place subjects into positions to be safely guided or restrained, and other actions to defend ourselves or others before having to resort to other weapons or tools



TRAINING

- ▶ Police Vehicle Operations (Driving)
 - ▶ In scenarios, decision-making is developed and evaluated with regard to operating the police vehicle with due regard for the safety of the public
 - ▶ Especially in critically dangerous operations like pursuits, Officers are trained and expected to balance the need for stopping the suspect vehicle against the reasonably foreseeable risks to the public created by the suspect's driving behavior
 - ▶ Supervisors are also trained to monitor the pursuit and make decisions about it terminating if the risks become too high



TRAINING

► Force on Force

- Force on Force is designed to incorporate all individual skills developed in the other disciplines to evaluate an officer's decision-making ability under stress in realistic scenario based training
- Officers are provided with equipment that safely simulates duty tools and weapons
- Role Players engage the officers in a scenario that forces the officer to make a decision on the level of force required to achieve a lawful objective
- After the scenario is concluded, the students are de-briefed and required to provide all the information used in their decision-making and their decision is evaluated against the legal and policy standards

